

AMENDED IN SENATE MAY 31, 2016

SENATE BILL

No. 1134

Introduced by Senators Leno and Anderson
(Coauthors: Senators Glazer and Hancock)
(Coauthor: Assembly Member Bonta)

February 18, 2016

An act to amend Sections 1473, 1485.5, and 1485.55 of the Penal Code, relating to habeas corpus.

LEGISLATIVE COUNSEL'S DIGEST

SB 1134, as amended, Leno. Habeas corpus: new evidence: motion to vacate judgment: indemnity.

Existing law allows every person who is unlawfully imprisoned or restrained of his or her liberty to prosecute a writ of habeas corpus to inquire into the cause of his or her imprisonment or restraint. Existing law allows a writ of habeas corpus to be prosecuted for, but not limited to, false evidence that is substantially material or probative to the issue of guilt or punishment that was introduced at trial and false physical evidence which was a material factor directly related to the plea of guilty of the person.

This bill would additionally allow a writ of habeas corpus to be prosecuted on the basis of new evidence that is credible, material, presented without substantial delay, and of such decisive force and value that it would have more likely than not changed the outcome at trial.

Existing law requires the California Victim Compensation and Government Claims Board to recommend an appropriation be made by the Legislature for the purpose of indemnifying a person if the evidence shows that a crime with which the person was charged was either not

committed at all, or, if committed, was not committed by that person. Existing law requires that the appropriation recommended shall be a sum equivalent to \$140 per day of incarceration served. If a court grants a writ of habeas corpus or vacates a judgment on the basis of new evidence and finds that the new evidence points unerringly to innocence, existing law requires the board to recommend an appropriation to the Legislature pursuant to these provisions without a hearing.

This bill would require the board, without a hearing, to recommend an appropriation to the Legislature if the court finds that the person is factually innocent. The bill would make additional clarifying and technical changes.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1473 of the Penal Code is amended to
2 read:
3 1473. (a) Every person unlawfully imprisoned or restrained
4 of his or her liberty, under any pretense, may prosecute a writ of
5 habeas corpus to inquire into the cause of his or her imprisonment
6 or restraint.
7 (b) A writ of habeas corpus may be prosecuted for, but not
8 limited to, the following reasons:
9 (1) False evidence that is substantially material or probative on
10 the issue of guilt or punishment was introduced against a person
11 at a hearing or trial relating to his or her incarceration.
12 (2) False physical evidence, believed by a person to be factual,
13 probative, or material on the issue of guilt, which was known by
14 the person at the time of entering a plea of guilty, which was a
15 material factor directly related to the plea of guilty by the person.
16 (3) (A) New evidence exists that is credible, material, presented
17 without substantial delay, and of such decisive force and value
18 that it would have more likely than not changed the outcome at
19 trial.
20 (B) For purposes of this section, “new evidence” means evidence
21 that has been discovered after trial, that could not have been
22 discovered prior to trial by the exercise of due diligence, and is
23 admissible and not merely cumulative, corroborative, collateral,
24 or impeaching.

1 (c) Any allegation that the prosecution knew or should have
2 known of the false nature of the evidence referred to in paragraphs
3 (1) and (2) of subdivision (b) is immaterial to the prosecution of
4 a writ of habeas corpus brought pursuant to paragraph (1) or (2)
5 of subdivision (b).

6 (d) This section does not limit the grounds for which a writ of
7 habeas corpus may be prosecuted or preclude the use of any other
8 remedies.

9 (e) (1) For purposes of this section, “false evidence” includes
10 opinions of experts that have either been repudiated by the expert
11 who originally provided the opinion at a hearing or trial or that
12 have been undermined by later scientific research or technological
13 advances.

14 (2) This section does not create additional liabilities, beyond
15 those already recognized, for an expert who repudiates his or her
16 original opinion provided at a hearing or trial or whose opinion
17 has been undermined by later scientific research or technological
18 advancements.

19 SEC. 2. Section 1485.5 of the Penal Code is amended to read:

20 1485.5. (a) If the district attorney or Attorney General
21 stipulates to or does not contest the factual allegations underlying
22 one or more of the grounds for granting a writ of habeas corpus
23 or a motion to vacate a judgment, the facts underlying the basis
24 for the court’s ruling or order shall be binding on the Attorney
25 General, the factfinder, and the California Victim Compensation
26 and Government Claims Board.

27 (b) The district attorney shall provide notice to the Attorney
28 General prior to entering into a stipulation of facts that will be the
29 basis for the granting of a writ of habeas corpus or a motion to
30 vacate a judgment.

31 (c) In a contested or uncontested proceeding, the express factual
32 findings made by the court, including credibility determinations,
33 in considering a petition for habeas corpus, a motion to vacate
34 judgment pursuant to Section 1473.6, or an application for a
35 certificate of factual innocence, shall be binding on the Attorney
36 General, the factfinder, and the California Victim Compensation
37 and Government Claims Board.

38 (d) For the purposes of this section, “express factual findings”
39 are findings established as the basis for the court’s ruling or order.

1 (e) For purposes of this section, “court” is defined as a state or
2 federal court.

3 SEC. 3. Section 1485.55 of the Penal Code is amended to read:

4 1485.55. (a) In a contested proceeding, if the court has granted
5 a writ of habeas corpus or when, pursuant to Section 1473.6, the
6 court vacates a judgment, and if the court has found that the person
7 is factually innocent, that finding shall be binding on the California
8 Victim Compensation and Government Claims Board for a claim
9 presented to the board, and upon application by the person, the
10 board shall, without a hearing, recommend to the Legislature that
11 an appropriation be made and the claim paid pursuant to Section
12 4904.

13 (b) In a contested or uncontested proceeding, if the court grants
14 a writ of habeas corpus and did not find the person factually
15 innocent in the habeas corpus proceedings, the petitioner may
16 move for a finding of *factual* innocence by a preponderance of the
17 evidence that the crime with which he or she was charged was
18 either not committed at all or, if committed, was not committed
19 by him or her.

20 (c) If the court vacates a judgment pursuant to Section 1473.6,
21 on any ground, the petitioner may move for a finding of *factual*
22 innocence by a preponderance of the evidence that the crime with
23 which he or she was charged was either not committed at all or,
24 if committed, was not committed by him or her.

25 (d) If the court makes a finding that the petitioner has proven
26 his or her *factual* innocence by a preponderance of the evidence
27 pursuant to subdivision (b) or (c), the board shall, without a
28 hearing, recommend to the Legislature that an appropriation be
29 made and any claim filed shall be paid pursuant to Section 4904.

30 (e) A presumption does not exist in any other proceeding for
31 failure to make a motion or obtain a favorable ruling pursuant to
32 subdivision (b) or (c).

33 (f) If a federal court, after granting a writ of habeas corpus,
34 pursuant to a nonstatutory motion or request, finds a petitioner
35 *factually* innocent by no less than a preponderance of the evidence
36 that the crime with which he or she was charged was either not
37 committed at all or, if committed, was not committed by him or
38 her, the board shall, without a hearing, recommend to the

- 1 Legislature that an appropriation be made and any claim filed shall
- 2 be paid pursuant to Section 4904.

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